

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

XEROX CORPORATION,

Plaintiff,

No. CIV 12-164 LKK CKD

vs.

THE PRINTING PRESS, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

Presently before the court is plaintiff's motion for default judgment. This matter is submitted without oral argument. The undersigned has fully considered the briefs and record in this case and, for the reasons stated below, will recommend that plaintiff's motion for default judgment be granted.

In this action, plaintiff seeks damages for breach of contract, money due on an open book account, money due on an account stated, and replevin.<sup>1</sup> Plaintiff's claims arise out of lease agreements for printers/copiers. The record reflects that defendants were properly served with process on February 6, 2012 and default was entered on April 13, 2012. Plaintiff thereafter filed an application for default judgment. Plaintiff seeks an entry of default judgment in the

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<sup>1</sup> The application for default judgment seeks only monetary damages. The claim for replevin is not addressed in plaintiff's briefing.

1 amount of \$142,253.03.

2 Entry of default effects an admission of all well-pleaded allegations of the  
3 complaint by the defaulted party. Geddes v. United Financial Group, 559 F.2d 557 (9th Cir.  
4 1977). The court finds the well pleaded allegations of the complaint state a claim for which  
5 relief can be granted. Anderson v. Air West, 542 F.2d 1090, 1093 (9th Cir. 1976). The  
6 application for default judgment and the exhibits and affidavits attached thereto also support the  
7 finding that plaintiff is entitled to the relief in the form of monetary damages requested in the  
8 prayer for default judgment, which does not differ in kind from the relief requested in the  
9 complaint. Henry v. Sneiders, 490 F.2d 315, 317 (9th Cir.), cert. denied, 419 U.S. 832 (1974).  
10 The amount sought is supported by the affidavits submitted in support of the motion for default  
11 judgment. Plaintiff also requests prejudgment interest, calculated under California law. Such  
12 calculation is proper in that plaintiff has alleged state law claims upon which judgment may be  
13 entered. See Oak Harbor Freight Lines, Inc. v. Sears Roebuck & Co., 513 F.3d 949, 961 (9th  
14 Cir. 2007). Prejudgment interest should therefore be awarded. Plaintiff is also entitled to  
15 attorneys fees under the lease agreements at issue here and the amount claimed is reasonable.  
16 There are no policy considerations which preclude the entry of default judgment of the type  
17 requested. See Eitel v. McCool, 782 F.2d 1470, 1471-1472 (9th Cir. 1986) (factors that may be  
18 considered by the court are possibility of prejudice to the plaintiff, merits of plaintiff's  
19 substantive claim, sufficiency of the complaint, sum of money at stake in the action; possibility  
20 of a dispute concerning material facts; whether the default was due to excusable neglect, and  
21 strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits).

22 For the foregoing reasons, IT IS HEREBY RECOMMENDED that plaintiff's  
23 motion for default judgment (dkt. no. 11) against defendants be granted in the amount of  
24 \$142,253.03.

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*Carolyn K. Delaney*  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE